

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

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DANNY W. PICKARD, #245 939 \*  
Plaintiff, \*  
v. \*  
SGT. MOORE, *et al.*, \*  
Defendants. \*

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3:07-CV-270-MHT  
(WO)

**ORDER**

Plaintiff is an inmate incarcerated at the Russell County Jail. He filed this 42 U.S.C. § 1983 action on March 28, 2007. In addition to Defendants Riley and Moore, Plaintiff names “COs Russell County Detention Center” as a party to the complaint.

The Federal Rules of Civil Procedure do not provide for fictitious party practice as it is incompatible with federal procedure. *See Rule 10(a) ("[i]n the complaint, the title of the action shall include the names of all the parties . . ."); New v. Sports and Recreation, Inc.*, 114 F.3d 1092, 1094 at n.1 (11<sup>th</sup> Cir. 1997) (fictitious party practice not permitted in federal court and plaintiff's failure to name parties required that court strike parties.); *Watson v. Unipress*, 733 F.2d 1386, 1388 (10<sup>th</sup> Cir. 1984) (plaintiff did not amend her complaint with identities of unknown defendants, and, therefore, no one directly involved in incident was named as defendant.). In light of the foregoing and, the court deems it appropriate to require Plaintiff

to file an amendment to his complaint.

Accordingly, it is ORDERED that:

1. On or before June 22, 2007 Plaintiff shall file an amendment to his complaint which informs the court of the true names of "COs Russell County Detention Center" who allegedly violated his constitutional rights. Plaintiff is cautioned that if he fails to properly respond to this directive these individuals will not be considered parties to this cause of action and they will be dismissed from this case. *Hindes v. The Federal Deposit Insurance Corp.*, 137 F.3d 148, 155 (3rd Cir. 1998) (case law requires dismissal of fictitious parties when their proper identities are not submitted to the court.);
2. Plaintiff's amended complaint should specifically describe how each of the individuals identified in this order violated his constitutional rights. In his response to this directive, Plaintiff must **separately** list each person and delineate by his/her name the actions and/or conduct which Plaintiff contends violated his constitutional rights. Additionally, Plaintiff shall set forth **short and plain statements** showing why he is entitled to relief. Each allegation in the amendment should be **simple, concise and direct**. See Rule 8, *Federal Rules of Civil Procedure*.

Done, this 8<sup>th</sup> day of June 2007.

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/s/ Wallace Capel, Jr.  
WALLACE CAPEL, JR.  
UNITED STATES MAGISTRATE JUDGE